

**DISTRICT CIVIL COURT COSTS**  
**RUSSELL COUNTY, ALABAMA**

**FILING FEES**

\$

\$3,000.01 to \$10,000.00	235.00
Each Additional Plaintiff (\$500.00 cap)	50.00
(Service by Sheriff in Alabama for one defendant, with street address, is included in initial filing fee)	

**ADDITIONAL SERVICE FEES**

Each Additional Defendant/Personal Service	15.00
Service by Certified Mail (add \$.17 for each add. oz)	
Restricted Delivery	10.04
Non-restricted Delivery	5.54
Personal Service by Muscogee County Sheriff (per defendant)	50.00
(Money order only payable to Muscogee County Sheriff)	
Each Additional Defendant By Process Server	15.00

**SUBPOENA FEES**

17.00

Personal Service (included in initial filing fee)
Certified Mail (see above certified mail fees)

**DESPOSITIVE MOTIONS**

Judgment on pleadings/Summary Judgment/Default Judgment	50.00
---	-------

**POST JUDGMENT PROCEEDINGS**

Attachment	35.00
Execution	35.00
Process of Garnishment	35.00
Certified Mail on Garnishee	5.71
Certified Mail on Defendant	10.04

**COPIES**

One copy of each pleading is distributed to all parties, or their attorney, in each case. For additional copies, a request must be submitted, in writing, with applicable fees.

**\*\*\*All documents must be letter size\*\*\***

***PERSONAL CHECKS ARE NO LONGER ACCEPTED***

*We accept cash, local business checks, cashier's checks or money orders made payable to*

***KATHY COULTER, CIRCUIT CLERK***

***501 14<sup>TH</sup> Street***

***Phenix City, AL 36867***

***334/298-0516***

# ALABAMA'S DISTRICT CIVIL COURT

District Civil is a special civil division of the District Court where individuals, as well as businesses, can settle disputes and disagreements. The maximum amount you may sue or be sued for is \$3,000.01 to \$10,000.00. There are no juries and you may appear before the judge with or without an attorney but, an attorney is recommended.

## Should you file a District Civil Case?

Before you file a claim, you should contact the person(s) or business you plan to sue and attempt to settle your dispute out of court. This effort may save you both time and money.

You should, also, find out if the person(s) or business you plan to sue has any money or assets to pay your claims, if you should win. Otherwise, you may have a difficult time collecting on a court judgment. Remember, it is up to you, not the court, to take further legal action against the person(s) or business if they do not pay the judgment.

## Who can use District Civil Court?

An individual who has reached the age of 19, a partnership, or a corporation may file a claim. If a partnership files without an attorney, the person representing the partnership must be a partner or employee of the partnership. A corporation must be represented by an attorney.

## How do you file a District Civil Case?

The case should be filed with the District Civil Division of the District Court in the county where the person or business you wish to sue lives or has an office. The Court Clerk has this form. **The Court Clerk cannot give you legal advice.** You may have another individual help you complete the forms if you are physically unable to fill them out yourself. Court personnel are not permitted to do this for you.

Once you complete the complaint, you become the "plaintiff" in the case and the person you are suing is the "defendant". It is the responsibility of the plaintiff to provide a good and proper address for each defendant. The complaint cannot be served if this information has not been provided to the Court.

**Filing fees are non-refundable.** You must pay a filing fee at the time the claim is filed. If you cannot afford to prepay this fee, you may complete an Affidavit of Substantial Hardship form. This affidavit must be filed at the time you file your case. If granted by the Judge, court costs will be assessed at the conclusion of the case. You may be required to pay the total costs at that time.

The clerk will assign you a case number and you should use this number whenever you contact the court concerning your case.

## **What happens after the claim is filed?**

Once the forms are completed and presented to the Clerk for filing, this office will process the complaint for service on the defendant(s) by the sheriff's department. If you prefer service by certified mail, or some other service type, this should be noted on the complaint. Any applicable service fees must be paid in advance by the plaintiff. You will be notified of the service date by mail with a computer printout. Service dates are not given via telephone. The defendant has 14 days to file an answer. Upon service of the defendant(s) the case will be set for trial on the next available court date after the 14 days. If the defendant files an answer a copy will be mailed to you. If the defendant(s) agrees to the complaint and files an answer of consent, the Judge may enter a consent judgment in favor of the plaintiff against the defendant(s). In some cases, the case may be set for trial for the plaintiff to prove the amount of the damages or amount of claim.

If the defendant(s) fails to file an answer within 14 days, the plaintiff may request a judgment by default.

All parties to a district civil case are encouraged to try and reach a settlement agreement prior to trial. All settlement agreements should be in writing and should state who is to pay the court costs. If the defendant(s) does not agree to pay the court costs as part of the settlement, the plaintiff will be responsible.

If a settlement agreement is reached before the trial, the plaintiff must immediately notify the clerk, in writing, so that the trial can be cancelled. Faxes and phone calls are not accepted.

## **What should you do to prepare for the trial?**

If an agreement cannot be reached, you assemble all papers, receipts, bills, sales tickets, estimates, photographs, etc., that include information concerning your case.

You should write down the details and facts of the case to assist you in telling your side of the story at the trial.

You may bring any witnesses you feel can help substantiate your case. If there is any reason to believe a witness will not, or can not voluntarily appear, you may ask the clerk to issue a **witness subpoena** requiring that person to appear. You will be required to pay a witness subpoena fee at the time of the request. Requests must be in writing.

## **What happens at the trial?**

**BE ON TIME.** Russell County cases are always set on Eastern Standard Time. If you are late, the judge may dismiss your case. If an emergency arises that may prevent you from appearing at the trial, you **MUST** inform the clerk, in writing, as soon as possible and request a continuance (delay) of the trial.

A trial in District Civil Court is an informal hearing before the judge. There is no jury. When the case is called, the plaintiff will present his/her evidence and his/her witnesses. The defendant(s) will then present his/her evidence, and call his/her witnesses.

After hearing both sides of the case and looking at the evidence, the judge will make a decision and render a **judgment** based on the law and the facts presented. In some cases, the decision is made while you are before the Court. However, the Judge may take your case under advisement and enter an Order at a later date. You will be mailed a copy of the Judge's order. It is important that all parties maintain a current mailing address and phone number on file with the Circuit Clerk's office.

### **What can you do if you disagree with the Court's judgment?**

If you disagree with the Court's decision, you may appeal the case by filing a NOTICE OF APPEAL form with the clerk of the District Court within 14 days after the date of the judgment. This form may be obtained from the Circuit Clerk's office. Appeal costs include filing fees and possibly a bond (lower court costs).

You may need the assistance of an attorney if you choose to appeal. The simplified procedures of District court do not apply in Circuit Court.

### **If you, the plaintiff, win, how do you collect the judgment?**

The plaintiff cannot initiate any legal proceeding until the 14 day appeal time has expired. If the defendant(s) does not pay the judgment or make satisfactory arrangements, it is up to the plaintiff to file one of the following actions in an attempt to collect the amount of the judgment:

- **Garnishment of Wages**--Must include the name and address of the employer. Some employers require that the defendant's social security number be stated on the garnishment form. State and Federal law prohibits the garnishment of some income, such as social security. The Clerk's office cannot advise you as to your ability to collect.
- **Garnishment of Bank Account**--Must include the correct name and address of bank.
- **Execution for Levy on Property**--Obtain a court order authorizing the sheriff to pick up any property belonging to the defendant(s) and sell it to satisfy the judgment. The property levied cannot be under a recorded mortgage (plaintiff can check with the probate court record room for recordings).

All of the above actions require an additional filing fee. The clerk can give you the necessary forms: but the method of collection may become involved. It is strongly suggested that you consult with an attorney for explanation of collection procedures and to assist you in filing the appropriate forms. **The court clerk cannot give you legal advice.**

It is important to mention, it is easier to get a judgment than it is to collect on it. **A judgment is not a guarantee of collection.** If the defendant(s) does not work, own property, or is self employed, it is very difficult to collect.

If you do not understand the proceeding, you should contact an attorney for assistance. You have certain legal rights and an attorney can explain these rights to you. **The court clerk cannot give legal advice.**

## **DEFINITIONS**

**Plaintiff:** The person who files a claim against another person.

**Defendant:** The person against whom a claim is filed.

**Statement of Claim (Complaint):** The legal paper filed by the plaintiff briefly describing the claim against the defendant.

**Defendant's Answer:** The legal paper filed by the defendant admitting or denying all or part of the claim against him/her.

**Defendant's Counterclaim:** The legal paper filed by the defendant telling the Court and Plaintiff about a claim(s) he has against the plaintiff.

**Judgment:** A final determination by a Judge of the rights and claims of the parties in an action.

**STATEMENT OF CLAIM**  
**Complaint - District Civil**  
(Not to be used for Small Claims and Detinue Actions)

Case Number

57-DV-\_\_\_\_-\_\_\_\_

**IN THE DISTRICT COURT OF RUSSELL COUNTY, ALABAMA**

VS.

Plaintiff

Defendant

Home or Business Address: \_\_\_\_\_

Home or Business Address: \_\_\_\_\_

Home or Business Telephone Number: \_\_\_\_\_

Home or Business Telephone Number: \_\_\_\_\_

Name of Attorney: \_\_\_\_\_

Additional Defendant: \_\_\_\_\_

Business Telephone Number: \_\_\_\_\_

\_\_\_\_\_

**COMPLAINT**

1. The plaintiff claims the defendant owes the plaintiff the sum of \$ \_\_\_\_\_ because:  
(make a short and plain statement of the claim showing that the plaintiff is entitled to relief.)

2. The plaintiff also claims from the defendant court costs in the sum of \$ \_\_\_\_\_, plus \$ \_\_\_\_\_ for interest and \$ \_\_\_\_\_ for attorney's fees.

\_\_\_\_\_  
Plaintiff or Plaintiff's Attorney (signature)

Attorney Code: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's or Plaintiff's Attorney's Phone Number

\_\_\_\_\_  
Plaintiff's or Plaintiff's Attorney's E-mail Address

Date: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's or Plaintiff's Attorney's Fax Number

**SUMMONS**

To any sheriff or any person authorized by either Rules 4.1(b)(2) of the Alabama Rules of Civil Procedure to perfect service:  
You are hereby commanded to serve this summons and complaint upon the above-named defendant.

**NOTICE TO DEFENDANT**

THE COMPLAINT SET OUT ABOVE IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU ARE REQUIRED TO MAIL OR HAND DELIVER A COPY OF A WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT, TO THE PLAINTIFF (OR THE ATTORNEY FOR THE PLAINTIFF), AT THE ADDRESS NOTED ABOVE.

THIS ANSWER MUST BE MAILED OR HAND DELIVERED TO THE CLERK OF COURT AT THE ADDRESS BELOW WITHIN FOURTEEN (14) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

**YOU MUST FILE THE ORIGINAL ANSWER WITH THE CLERK OF THIS COURT.**

**Kathy Coulter, Circuit Clerk**  
501 14<sup>th</sup> Street  
Phenix City, Alabama 36867  
(334) 298-0516  
[kathy.coulter@alacourt.gov](mailto:kathy.coulter@alacourt.gov)

<b>STATE OF ALABAMA</b> <b>Unified Judicial System</b> _____ County		Revised 3/23/05 <small>Check one (Not for Workers' Comp., PFA, or Small Claims cases):</small> <input type="checkbox"/> District Court <input type="checkbox"/> Circuit Court	► Case No. _____
Style of case:  v. _____		<b>CIVIL MOTION COVER SHEET</b>  Name of Filing Party: _____	
Name, Address, and Telephone No. of Attorney or Party, If Not Represented:  Attorney Alabama State Bar No.: _____		To be filled out by Clerk of Court: <input type="checkbox"/> Filing Fee Charged and Collected (Amt \$ _____) <input type="checkbox"/> Filing Fee Not Required <input type="checkbox"/> Affidavit of Hardship on File or State Agency	
<b>Type of Motion (Check One)</b>			
<b>Motions Requiring Fee</b>		<b>Motions Not Requiring Fee</b>	
<input type="checkbox"/> Default Judgment (\$50.00) <input type="checkbox"/> Joinder in Other Party's Dispositive Motion (i.e. Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Judgment on the Pleadings (\$50.00) <input type="checkbox"/> Motion to Dismiss, or in the Alternative Summary Judgment (\$50.00) <input type="checkbox"/> Renewed Dispositive Motion (Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) <input type="checkbox"/> Summary Judgment Pursuant to Rule 56 (\$50.00) <input type="checkbox"/> Other _____, pursuant to Rule _____ (\$50.00)  * Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees.  <input type="checkbox"/> Local Court Cost \$ _____  Hearing Date: _____		<input type="checkbox"/> Add Party <input type="checkbox"/> Amend <input type="checkbox"/> Change of Venue/Transfer <input type="checkbox"/> Compel <input type="checkbox"/> Consolidation <input type="checkbox"/> Continue <input type="checkbox"/> Deposition <input type="checkbox"/> Designate a Mediator <input type="checkbox"/> Judgment as a Matter of Law (during trial) <input type="checkbox"/> Disburse Funds <input type="checkbox"/> Extension of Time <input type="checkbox"/> In Limine <input type="checkbox"/> Joinder <input type="checkbox"/> More Definite Statement <input type="checkbox"/> Motion to Dismiss pursuant to Rule 12(b) <input type="checkbox"/> New Trial <input type="checkbox"/> Objection of Exemptions Claimed <input type="checkbox"/> Pendente Lite <input type="checkbox"/> Plaintiff's Motion to Dismiss <input type="checkbox"/> Preliminary Injunction <input type="checkbox"/> Protective Order <input type="checkbox"/> Quash <input type="checkbox"/> Release from Stay of Execution <input type="checkbox"/> Revive Judgment <input type="checkbox"/> Sanctions <input type="checkbox"/> Sever <input type="checkbox"/> Special Practice in Alabama <input type="checkbox"/> Stay <input type="checkbox"/> Strike <input type="checkbox"/> Supplement to Pending Motion <input type="checkbox"/> Vacate or Modify <input type="checkbox"/> Withdraw <input type="checkbox"/> Other _____, pursuant to Rule _____ (Subject to filing fee)	
Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government.		Date: _____  Signature of <b>Attorney or Party</b> : _____	

\* This Cover Sheet must be completed, signed by the filing attorney or party, and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

\*\* Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.

# APPLICATION AND AFFIDAVIT FOR ENTRY OF DEFAULT JUDGMENT

Case Number

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_, ALABAMA  
(Circuit or District) (Name of County)

\_\_\_\_\_  
Plaintiff v. Defendant

- ☐ I, affiant, request that the ☐ clerk of court, or ☐ judge, pursuant to Rule 55(b), Alabama Rules of Civil Procedure (ARCP), enter a default judgment against the above - named defendant,\* in the above case for the defendant's failing to plead, answer, or otherwise defend.

The affiant, \_\_\_\_\_, being duly sworn, states as follows:

1. That the affiant has personal knowledge of the facts set forth in the affidavit.
2. That the defendant was served with a summons and a copy of the Statement of Claim/Complaint on (date) \_\_\_\_\_.
3. That more than \_\_\_\_\_ days have elapsed since the defendant was served with a summons and a copy of the Statement of Claim/Complaint.
4. That the defendant has failed to answer or otherwise defend against the plaintiff's Statement of Claim/Complaint.
5. That this affidavit is executed by the affiant in accordance with Rule 55(b), ARCP, for the purpose of enabling the plaintiff to obtain a **default judgment** against the defendant, for the defendant's failing to answer or otherwise defend against the plaintiff's Statement of Claim/Complaint.
6. That the defendant is not an infant or an incompetent person, and there has been no violation of the provisions of Ala. Code 1975, Chapter 19, Title 5.
7. That the defendant is is not in military service.
8. Judgment Conditions: ☐ with ☐ without waiver of exemptions.
9. That the amount of money claimed by the defendant to the plaintiff is

☐ THE SUM OF \$ \_\_\_\_\_, which is to be determined as follows:

Principal Balance \$ \_\_\_\_\_

Interest \$ \_\_\_\_\_

Attorney Fee \$ \_\_\_\_\_ (if requesting attorney's fees, it must be determined by the judge, not the clerk).

(If provided by contract, note or law)

- ☐ SPECIFY PROPERTY (Describe, on a separate sheet of paper, property of which the plaintiff demanded right to possession from the defendant in the Statement of Claim/Complaint.)

10. The affiant requests entry of judgment: ☐ By the Court  
☐ By the Clerk

Name of Affiant: \_\_\_\_\_

Signature of Affiant: \_\_\_\_\_

Affiant's Home or Business Address (if not represented by an attorney):  
\_\_\_\_\_

Sworn To and Subscribed Before Me This

Date: \_\_\_\_\_

\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Name of Attorney:

\_\_\_\_\_  
Signature of Attorney:

\_\_\_\_\_  
Business Address of Attorney:

\_\_\_\_\_  
City State Zip Code

- ☐ Default judgment is hereby rendered against the defendant in the amount of \$ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge/Clerk

- ☐ Default judgment is hereby rendered against the defendant and the plaintiff is awarded right to possession of the property sworn to in the affidavit above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge/Clerk

## CERTIFICATE OF SERVICE ON OTHER PARTIES

I hereby certify that a copy of this Application, Affidavit, and Entry of Default Judgment has been sent, by first class mail, postage prepaid, to all parties who are not in default in this case.

Signed \_\_\_\_\_

### Rule 55, ARCP

\* Separate form shall be completed for each defendant in cases involving multiple defendants.

Pursuant to Ala. Code 1975, §12-19-71(a) (10), a filing fee is required when seeking a default judgment pursuant to Rule 55(b), ARCP.

Original – Court File

Copy – Plaintiff

Copy - Defendant



IN THE DISTRICT COURT OF RUSSELL COUNTY, ALABAMA

\_\_\_\_\_, \*  
Plaintiff(s)

VS. \* Case No. \_\_\_\_\_

\_\_\_\_\_, \*  
Defendant(s)

**MOTION**

Comes now \_\_\_\_\_, and moves this  
Honorable Court to:

_____	Continue case	_____	Dismiss case
_____	Amend complaint	_____	Amend judgment
_____	Enter consent judgment	_____	Reinstate case
_____	Set aside judgment		

for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (PRINT)

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
Telephone/Cell Phone